

**PART 7**

**8-700 ACCESSORY AND ACCESSORY SERVICE USES  
AND STRUCTURES**

**8-701**

**Authorization**

Accessory uses and structures, **as defined in Article 12, Definitions**, are permitted in any zoning district, unless qualified below, but only in conjunction with, incidental to, and on the same lot with a principal use or structure which is permitted within such district.

**8-702**

**Permitted Accessory Uses**

Accessory uses and structures shall include, but are not limited to, the following uses and structures, provided that such uses or structure shall be in accordance with the definition of Accessory Use contained in Article 12.

1. Antenna structures.
2. Barns and any other structures that are customarily incidental to an agricultural use on a tract of land not less than two acres.
3. Carports.
4. Child's playhouse, not to exceed 100 square feet in gross floor area, and child's play equipment.
5. Doghouses, pens and other similar structures for the housing of commonly accepted pets, but not including kennels as defined in Article 12.
6. Garages, private, subject to the following limitations:
  - A. No garage accessory to a multiple family residence shall be designed for more than two vehicles per dwelling unit.
  - B. No tractor trailer and not more than one commercial vehicle may be parked in a private, enclosed garage in an R District.
7. Gardening.
8. Guest house or rooms for guests in an accessory structure, but only on lots of at least two acres, **and only if** used for the

occasional housing of guests of the occupants of the principal structure and not as rental units or for permanent occupancy as housekeeping units.

9. Parking and loading spaces, off-street, as regulated by Part 4 of this Article.
10. ~~Parking of not more than one commercial vehicle per dwelling unit in a residential district, but not to include any tractor trailer or vehicle exceeding one and one-half (1 1/2) ton capacity. Parking shall not be in any required front or side yard.~~ In the rural zoning districts, the parking of any tractor trailer or vehicle exceeding one and one-half (1 ½) ton capacity shall not be permitted on a parcel of one (1) acre or less. Parking also shall not be permitted in any required setback.
11. Parking of small cargo trailers and major recreational equipment in a residential district including but not limited to boats, boat trailers, camping trailers, travel trailers, motorized dwellings, tent trailers, houseboats and horse vans, but subject to the following limitations:
  - A. Such equipment shall not be used for living, sleeping or other occupancy when parked, or stored on a residential lot or in any other location not approved for such use.
  - B. **Such equipment** shall not be located in any required front or side yard.
  - C. **Such equipment** shall be located at least three (3) feet from all buildings.
12. Porches, gazebos, and similar structures.
13. Quarters of a caretaker, watchman or tenant farmer, and his family, but only in the Rural Districts. **and only at a density of one such dwelling quarters per twenty-five acres**
14. Recreation, storage and service structures in a manufactured home park.
15. Residence for a proprietor or storekeeper and their families located in the same building as their place of occupation.
16. Signs, as permitted by Part 5 of this Article.

17. Statues, arbors, trellises, barbecue stoves, flagpoles, fences, walls and hedges.
18. Outside storage, to include a compost pile, farm equipment and, **subject to the limitations in Article 2-508**, inoperable and junk vehicles on any lot, provided such storage and/or vehicle in a Residential District is located on the rear half of the lot; is screened from view from the first story window of any neighboring dwelling; and the total area for such outside storage, excluding the area occupied by one (1) junk vehicle, does not occupy more than **150** square feet.
19. Storage structures incidental to a permitted use, provided no such structure that is accessory to a single family detached or attached dwelling in the Residential Districts shall exceed 200 square feet in gross floor area. Such structures exceeding 200 square feet shall not be deemed accessory structures and shall be subject to the bulk regulations for principal structures for the zoning district in which located.
20. Swimming pool and bathhouses, private.
21. Tennis, basketball or volleyball court and other similar private outdoor recreation uses.
22. Wayside stands, but subject to the following limitations:
  - A. Stands shall be permitted only in the Rural District, on a lot containing at least 80,000 square feet.
  - B. Stand structures shall not exceed 400 square feet in gross floor area.
  - C. Stands shall be permitted only during crop-growing season, and such structures shall be removed except during such season.
  - D. Stands shall be for the express purpose of sale of agricultural products grown on the same property or the sale of products of approved home occupations conducted on the same property. For the purpose of this Ordinance, plants which are balled, burlapped or bedded shall not be considered as growing on the same property.

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Planning Commission Draft  
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- E. Stands shall be located a minimum distance of thirty (30) feet from the street line and no closer than ten (10) feet to any lot line which abuts a Residential District.
- F. Shall be located so as to provide for adequate off-street parking spaces and safe ingress and egress to the adjacent street.
- G. Notwithstanding the **sign** provisions of Part 5 of this Article, a wayside stand may have one building mounted sign which does not exceed ten (10) square feet in area, mounted flush against the stand.

23. Ponds, but subject to the following limitations:

- A. Ponds of more than 10,000 square feet in surface area shall be approved by the John Marshall Soil and Water Conservation District for location and retention structure design.
- B. The pond shall be located so that the 100 year flood pool and spillway is located not less than 50 feet from an adjacent property line unless with the written consent of the owner(s) involved.
- C. No land shall be disturbed in the construction of the pond that is less than 25 feet from an adjacent property line unless with the written consent of the owner(s) involved.
- D. Approval of the Department of Environmental Quality if Commonwealth of Virginia waters are to be impounded.

24. Yard/garage sales accessory to residential uses shall not require a Zoning Permit but shall be, subject to the following limitations:

- A. Not more than two yard sales shall be conducted on a lot in any calendar year.
- B. A yard sale shall not continue for longer than two days which shall be consecutive.
- C. Items offered for sale shall be used household goods or articles created or substantially processed on the premises by the residents thereof, and shall be the property of those residents.

25. Animal waste storage facility (including but not limited to a pile, storage tank or pit) subject to the following limitations:
  - A. Approval from the Department of Environmental Quality.
  - B. Approval in writing by the John Marshall Soil and Water Conservation District as to location and retention facility design.
26. The sale of wine for on-site consumption of wine produced by that winery.
27. Fundraising by local non-profit and governmental entities at governmental athletic recreation uses permitted pursuant to Section 3-311.18 of this Ordinance, if the accompanying standards are met. Fundraiser is defined as the raising of funds for the development and operation of the governmental athletic property upon which the event is held. A no-fee administrative permit is required.

For purposes of this definition, the term “event” shall not include any sports competitions in which youth or local adults are the principle users of the facility. Fundraising shall be subject to the following performing standards.

- A. In no event shall fireworks, hot air balloons or helicopters be used for any event(s).
- B. In no case shall attendance exceed 1,000, based upon the capacity of the facility.
- C. The maximum number of events shall not exceed two (2) in any calendar week.
- D. All grass areas used for parking shall be mowed and maintained as to minimize the risk of vehicle and field fires.
- E. The non-profit or governmental entity shall provide adequate security, emergency, traffic control, sanitation, and refreshment services at every event or activity.
- F. The applicant shall require its employees/volunteers and all invitees to strictly comply with State burning laws and copies of such laws shall be posted on site.

- G. The applicant shall conform at all times to County Health Department regulations.
- H. All uses under this category shall be conducted so as to meet all noise performance standards enumerated in Article 9 of the Fauquier County Zoning Ordinance.
- I. During events with outdoor music or amplified sound, the maximum permitted sound pressure noise levels shall not exceed 60 decibels at the property line (s).
- J. All events shall be conducted between the hours of 8:00 a. m. and 11:00 p. m. provided that all outdoor music shall cease no later than 10:00 p.m. Event preparation and breakdown shall cease by 11:00 p. m.
- K. All lighting shall be in conformance with the Fauquier County Zoning Ordinance and positioned downward, inward and shielded to eliminate glare from all adjacent properties.
- L. Virginia Department of Transportation approval and installation of entrance shall occur prior to any event being held.
- M. The applicant shall provide a copy of the local non-profit's IRS 501.c. determination letter from the Internal Revenue Code or a letter from the governmental agency stating that the event is being held for the benefit of the governmental agency.
- N. The site shall contain a minimum of 50 acres and have a minimum of 300 feet of frontage on a road designated by the County as a major collector (or higher) in the Comprehensive Plan unless the Zoning Administrator in issuing this permit determines that the type and amount of traffic generated by the fund raising event is such that it will not cause an undue impact on the neighbors or adversely affect safety of road usage.

## **8-703**

### **Accessory Uses Not Permitted**

- 1. Outdoor storage or overnight parking of buses, trucks or other vehicles exceeding **two** ton capacity in a Residential District.

2. Junkyards, scrap heaps or refuse piles except as specifically permitted in paragraph 18 of Section 8-702 above.

#### **8-704**

##### **Use Limitations**

1. All accessory uses and structures shall comply with the use limitations applicable in the zoning district in which located.
2. All accessory uses and structures combined shall cover no more than thirty (30) percent of the areas of the required rear yard.
3. All accessory uses and structures shall comply with the maximum height regulations applicable in the zoning district in which they are located, except as may be **exempted** in Section 2-104 of Article 2 of this Ordinance.
4. The following use limitations shall apply to fences: in residential districts, barbed wire or electric fences shall not be permitted on lots of less than 25 acres; however, barbed wire strand(s) may be used to enclose storage areas or other similar industrial and commercial uses or swimming pools. These strands shall be restricted to the uppermost portions of the fence and shall not extend lower than a height of six (6) feet from the nearest ground level.

**8-705**

**Location Regulations**

1. If an accessory-type building is attached to a principal building by any wall or roof construction, it shall be deemed to be a part of the principal building and shall comply in all respects with the requirements of this Ordinance applicable to a principal building.
2. Off-street parking and loading spaces shall be located in accordance with the provisions of Part 4 of this Article.
3. Signs shall be located in accordance with the provisions of Part 5 of this Article.
4. Wayside stands shall be located in accordance with the provisions of paragraph 22 of Section 8-702 above.
5. Ponds shall be located in accordance with the provisions of Paragraph 23 of Section 102 above.
6. Barns shall not be located less than 100 feet from any property line.
7. The following regulations shall apply to the location of all accessory structures or uses except those specifically set forth in paragraphs 1-5 above.
  - A. An accessory structure or use, no part of which exceeds seven (7) feet in height, may be located in any part of any side or rear yard, except as qualified in Section 2-505 of Article 2 **relating to sight distance protection on corner lots.**
  - B. No accessory structure or use shall be located in any required minimum front yard, except fences which do not exceed five feet in height, statues, arbor, trellis or flagpole, gate and gate posts.
  - C. No accessory structure or use which exceeds seven (7) feet in height shall be located in any required minimum side yard except as may be expressly permitted by a variance granted in accordance with the provisions of Article 10.
  - D. No accessory structure or use which exceeds seven (7) feet in height shall be located closer than a distance equal to its

height to any lot line in the rear yard except as may be expressly permitted by a variance granted in accordance with the provisions of Article 10.

E. On a corner lot, the rear line of which adjoins a side lot line of a lot to the rear, no accessory structure or use which exceeds seven (7) feet in height shall be located **closer to the adjacent lot line than the distance required for a minimum side yard for a non-corner lot and shall conform to the limitation of Section 2-505.**

**F. On a corner lot, no accessory structure or use which exceeds seven feet shall be located closer to the edge of the street's right-of-way than the required front yard distance for non-corner lots.**

## 8-706

### Permitted Accessory Service Uses

#### 1. Multiple Family Dwellings

The following uses are permitted as accessory to a principal use of multiple family dwellings when such dwelling or dwelling complex has a minimum of 125 dwelling units:

- A. Eating establishments.
- B. Group day care facilities or day care centers.
- C. Personal service establishments.
- D. Retail sales establishments selling convenience merchandise.
- E. Health clubs, spas, sauna and steam baths, swimming pools, indoor tennis courts, and other similar facilities but not including places for the training of athletes for competition

#### 2. Offices, Industrial Establishments and Institutional Buildings

The following uses are permitted as accessory to a principal use of offices, industrial establishments or institutional buildings in the Commercial and Industrial Districts when such principal use has a gross floor area of at least 75,000 square feet, except as qualified below:

- A. Business service and supply service establishments.
- B. Eating establishments.
- C. Group day care facilities or day care centers.
- D. Health clubs, spas, sauna and steam baths, swimming pools, indoor tennis courts, and other similar facilities but not including places for the training of athletes for competition.
- E. Offices for professional people associated with an industrial establishment or institutional building, with no limitation on the gross floor area of the principal use.
- F. Personal service establishment.
- G. A single residence for a watchman, custodian, proprietor or owner whose employment or business is directly related to the principal use, with no limitation on the gross floor area of the principal use.
- H. Retail sales establishments selling convenience merchandise.

**8-707**

**Use Limitations**

In addition to the use limitations applicable to the zoning district in which located and specified elsewhere in this Article, all accessory service uses shall be subject to the following use limitations:

1. Accessory service uses shall be designed to cater primarily to the residents or employees of the principal use with which they are associated.
2. With the exception of those uses set forth in Paragraph 3 below, all accessory service uses shall be located in the same building as the principal use, and public access to an accessory service use shall be only from an interior lobby or corridor of the building in which located.
3. Accessory service uses in the C-3 District may be located in a freestanding building separate from the principal use. Eating establishments in the I-1 District may also be located in a freestanding building. However, such freestanding buildings shall be allowed only in those locations shown on an approved

development plan for a planned office or industrial park and **all** use limitations and standards set forth **in this Section** shall also apply to such a freestanding accessory service use.

4. The aggregate area of all accessory service uses shall not exceed fifteen (15) percent of the total gross floor area of the principal building or buildings.
5. No accessory service use shall be located above the second floor of the building in which located, with the exception of:
  - A. The residence of a proprietor or owner which may be located on any floor.
  - B. The offices for professional people which may be located on any floor.
  - C. An eating establishment which may be located in a rooftop penthouse.
6. No exterior signage shall be allowed on any accessory use.

**PART 8**

**8-800 HOME OCCUPATIONS**

**8-801**

**Applicability**

**A home occupation is defined in Article 12, Definitions. It is a in general the use of a residential building or its accessory buildings by a resident to conduct a business, profession, occupation or trade for gain, and which use is incidental and secondary to the of the building for residential uses and purposes. Home occupations are permitted subject to the provisions below and to involve the use of a dwelling unit for a permitted use subject to the following provisions, to the use restrictions in the zoning district in which located, and to all other standards and regulations in this Ordinance.**

**8-802**

**Permitted Home Occupations**

Home occupations include the following uses and those uses determined by the Zoning Administrator to be sufficiently similar thereto in terms of type, scale and impact:

1. Artists and sculptors.
2. Authors and composers.
3. Dressmakers, seamstresses and tailors.
4. Family day care home limited to not more than five (5) children, excluding the provider's own children and any other children residing in the home.
5. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, ceramics and similar light manufacturing uses.
6. Office facility of a minister, rabbi, priest or other similar person associated with a religious organization.
7. Office facility of salesman, sales representative or manufacturer's representative, provided that no retail or wholesale transactions are made on the premises.
8. Office facility, of an architect, artist, broker, consultant, dentist, physician, professional therapist, engineer, planner,

landscape architect, public relations practitioner, instructor in arts and crafts, insurance agent, land surveyor, lawyer, musician, real estate agent and typist.

9. School of special instruction whose class size does not exceed four (4) pupils at any given time.
10. The letting for hire of not more than two (2) rooms, for rooming or boarding use for not more than two (2) persons, neither of whom is a transient.
11. Repair service establishment as a home occupation with special permit approval.
12. Sales of antique/classic automobiles where not more than 3 cars are inventoried, all cars are stored indoors, and there is no on-site signage or advertising with special permit approval.
13. Pet grooming with special permit approval in the RC, RA, RR-2, R-1, R-2 and R-4 zoning districts and permitted by right in the Village zoning district.
14. Gunsmithing with an inventory for retail sales of not more than ten (10) guns at any one time, none of which can be fully automatic, with no on-site signage or advertising and with special permit approval.

#### **8-803**

#### **Uses Not Permitted as Home Occupations**

Permitted home occupations shall not include antique shops, barbershops or beauty parlors, funeral chapels or funeral homes, gift shops, medical or dental clinics or hospitals, renting of trailers, restaurants **or other eating establishments**, riding or boarding stables or kennels, bed and breakfasts, abattoirs, motor vehicle related uses, commercial recreation uses, massage parlors and fortunetellers.

#### **8-804**

#### **Standards, Regulations and Use Limitations**

The following standards, regulations and use limitation are applicable to all permitted home occupations. They are in addition to limitations and regulations for the zoning district in which the home occupation, to the additional regulations and standards found elsewhere in this Article, for home occupations requiring a

special permit, are in addition to the general standards listed in Section 8-803 above.

1. A home occupation must be conducted within a dwelling which is a bona fide residence of the principal practitioner or in any accessory building thereto which is normally associated with a residential use.
2. **Except in the C-1 and CV Zoning Districts no retail sales shall be conducted on the premises for home occupations without a special permit for retail sales**
3. No mechanical or electrical equipment shall be employed other than machinery or equipment customarily found in the home associated with a hobby or avocation not conducted for gain or profit, or machinery or equipment which is essential in the conduct of the home occupation.
4. No outside display of goods or outside storage of equipment or materials used in the home occupation shall be permitted.
5. **There shall be no more than one employee other than a member of the household occupying the home dwelling used for the home occupation.**
6. No sign shall be permitted except in accordance with the provisions of Part 5 of this Article.

**PART 9**

**8-900 TEMPORARY USES**

**8-901**

**Applicability**

**Temporary uses are in general uses of a limited duration and scope. Most are allowed by issuance of an Administrative Permit by the Zoning Administrator. Some, however, require a special permit from the BZA. All temporary uses are subject to the standards and regulations listed below as well as to other regulations and use limitations found in other parts of this Article. Procedures for requesting and obtaining a special or administrative permit are in Parts 5 and 6 of Article 9.**

**8-902**

**Standards**

**1. Standards and Time Limits for Carnival, Circus, Festival, Fair, Horse Show, Dog Show, Steeplechase, Music Festival, Turkey Shoot, Sale of Christmas Trees and other Seasonal Commodities, and other Similar Activities**

- A. A temporary special permit may be issued for a period not to exceed 30 consecutive days in Residential and Rural Zoning Districts and one year in Commercial and Industrial Districts.
- B. All permitted activities in a Residential or Rural Zoning District shall be sponsored by a volunteer fire company, local chamber of commerce, veterans' organization, service club, civic organization, church or religious organization, sports or hunt club, charitable, educational or nonprofit organization or recognized chapter thereof whose principal administrative offices are located within the County.
- C. Where the activity is a circus, fair or carnival, and the owner of the circus, fair or carnival is an entity other than the sponsoring organization, the sponsoring organization shall furnish the Zoning Administrator the name and address of the owner or owners of the circus, fair or carnival.

- D. The sponsoring organization shall furnish the Health Director information as to sanitary arrangements and facilities to be used by the public and employees, and the Health Director shall advise the Zoning Administrator that such arrangements and facilities will be adequate if properly used and maintained.
- E. No temporary special permit shall be issued unless adequate provision is made for off-street parking and loading requirements.
- F. In addition to the requirements of this Ordinance, a carnival, circus, sideshow, dog and pony show, trained animal show, menagerie, musical or entertainment festival, or any other show, exhibition or performance similar thereto, shall produce a County license therefore in accordance with the provisions of Chapter 3 of the Code of Fauquier County.

## **2. Standards and Time Limits for Construction Office, Watchman Quarters and/or Equipment Shed**

- A. An administrative special permit may be issued for a period not to exceed two years.
- B. An administrative special permit may be extended beyond its two-year limit by **the Zoning Administrator** based on a finding (in addition to other applicable standards) that the construction project is of sufficient scope and magnitude to warrant the continuation of such use(s) and that the applicant is making reasonable and steady progress towards completion of the project to which the use(s) is accessory. **Extensions may be granted for** successive periods not to exceed two years each.
- C. A contractor's office, quarters for not more than two watchmen, and equipment sheds, including trailers and/or mobile homes used therefore, shall **only** be allowed on or immediately adjacent to an active construction site to which they are accessory.

- D. Such facilities shall not be located on the site earlier than 30 days prior to commencement of actual construction, and shall be removed no later than 20 days after completion of construction.
- E. The area in the vicinity of such use(s) and access roads thereto shall be treated or maintained in such a manner as to prevent dust or debris from blowing or spreading onto adjacent properties or onto any public right-of-way.

### 3. Standards and Time Limits for Mobile Homes While Constructing a Dwelling

- A. Such a temporary **administrative** permit shall be issued for a period no longer than would reasonably be required for construction of the proposed dwelling, generally not more than twelve months. The applicant shall submit a construction schedule which shall be monitored by the **Zoning** Administrator. Failure to comply with such schedule could result in revocation of the permit. The **Zoning** Administrator may approve such a permit for not more than a maximum of twenty four months.
- B. Such a use shall be allowed only on a lot where a single family detached dwelling is permitted by the provisions of this Ordinance, and for which a building permit has been issued for a permanent dwelling.
- C. In addition to the requirements for a temporary **administrative** permit, a zoning permit **must** be obtained prior to locating a mobile home in accordance with the provisions of this Ordinance.
- D. Occupancy of such a temporary dwelling shall be allowed only if appropriate sanitary facilities are provided as approved by the Health Department and such occupancy shall terminate immediately upon completion of the dwelling on the same lot, but in no event shall the time exceed the limit of the **administrative permit**. The mobile home must be removed from the site not later than 60 days

following the expiration of the temporary special permit or the date that the permanent dwelling is ready for occupancy, whichever is earlier.

- E. Additional conditions and requirements may be deemed necessary by the Zoning Administrator upon his review of a particular application for a temporary dwelling or mobile home.

#### **4. Standards and Time Limits for Subdivision/Apartment Sales/Rental Office**

- A. An administrative permit may be issued for a period not to exceed two years.
- B. An administrative special permit may be extended beyond its two year limit by the **Zoning Administrator** based upon a finding (in addition to other applicable standards) that the construction and sales/lease of the project to which the office is incidental or progressing toward completion in a reasonable and steady manner. Extensions may be renewed upon expiration for successive periods not to exceed two years.
- C. Such an office shall be used primarily for the purpose of the sales/and or rental of dwelling units in the subdivision or development wherein it is located.
- D. Such an office shall contain no sleeping accommodations.
- E. Such an office shall **remain** only until the initial sale or lease of all units in the development is complete.

**PART 10                      8-1000 NONCONFORMING USES AND SUBSTANDARD  
   SUBDIVISIONS**

**8-1001                      Applicability**

This part of Article 8 is applicable to buildings or uses which were lawfully existing at the time of adoption of this Ordinance, and subdivisions which were lawfully recorded at the time of adoption of this Ordinance which may not now conform with the regulations of this Ordinance. More complete definitions of nonconforming uses and substandard subdivisions are in Article 12, Definitions, of this Ordinance.

**8-1002                      Qualification of Nonconforming Uses**

1. Notwithstanding the definition of nonconforming building or use presented in Article 12, a building or use shall not be deemed a nonconforming use or building if such was a conforming building or use prior to the effective date of this Ordinance, and such use would otherwise be a conforming use under the provisions of this Ordinance except that it does not meet the minimum building or lot size or minimum yard requirements of the zoning district in which located.
2. Any use existing prior to the effective date of this Ordinance, which is allowed within a particular zoning district as a special permit or a special exception use by the provisions of this Ordinance, shall not be deemed to be a nonconforming use in such district. However, any subsequent replacement or enlargement of such use or the construction of any additional building for such use beyond the extent which existed prior to the effective date of this Ordinance shall be subject to a special permit obtained in accordance with the provisions of this Ordinance. Such special permit shall be approved only if the resulting use complies with the standards set forth elsewhere in this Article and in this Ordinance for the particular use in question.
3. The last federal or Commonwealth of Virginia use made on any Federally or Commonwealth of Virginia owned facility shall at the time the use becomes subject to the requirements of this Ordinance be deemed a nonconforming use.

**8-1003            Nonconforming Uses Which May Be Continued and Enlarged**

1. The following nonconforming uses may be continued and, upon obtaining a special permit from the BZA in accordance with the provisions of Article 9, such use may be enlarged subject to the conditions set forth in Paragraphs 2 through 3 below.
  - A. A single family detached dwelling in any district where such a dwelling is not permitted by the provisions of this Ordinance.
  - B. A commercial use allowed as a permitted, special permit or special exception use in a commercial district of one category of commercial zoning district under the provisions of this Ordinance, but located in a district of another commercial district category where such use is not allowed.
  - C. Any nonconforming use which has been in existence since May 9, 1968.
2. Such uses as set forth in Paragraph 1 may be enlarged to a total aggregate extent not to exceed twenty-five (25) percent of the area of land occupied by such nonconforming use and to a total aggregate extent not to exceed twenty-five (25) percent of the gross floor area of the building in which such nonconforming use is conducted; provided that such enlargement shall never exceed maximum floor area ratio prescribed for the zoning district in which located.
3. Structural alterations may be made in a building housing a nonconforming use set forth in Paragraph 1 above, but only to a total aggregate extent not to exceed fifty (50) percent of its current appraised value according to the records of the Commissioner of Revenue, unless, in the opinion of the BZA alteration, replacement and/or addition to a structure, will improve the compatibility of the use in relation to other properties in the area.

**8-1004            Regulations Controlling Other Nonconforming Uses**

1. Any nonconforming use, other than those specified in Section 10-1002 above may be continued but shall not be enlarged, extended or moved, nor shall any structural alteration be made

in any building in which such use is conducted, **provided however, that nothing in this section shall prevent the keeping of a building in good repair.**

2. **No nonconforming building or a building in which a nonconforming use is conducted that is declared by any authorized County official to be unsafe or unlawful by reason of physical condition, or which has been destroyed or damaged by casualty to an extent exceeding seventy-five percent of its current fair market value according to the Commission of Revenue, shall be restored, repaired or rebuilt, except: a) as a conforming use; or b) agricultural use building with concrete or masonry foundations or floors; or c) single detached dwellings.**
3. **If a nonconforming use is discontinued for a continuous period of more than two years, the land and buildings which were devoted to the nonconforming use shall be subject to all regulations of the zoning district in which the land or buildings are located as if such nonconforming use had never existed.**
4. **Notwithstanding any other provision of this Ordinance, a less impactive nonconforming use may be substituted for an existing nonconforming use upon application to the Zoning Administrator for a zoning permit.**
5. **No accessory use to a principal nonconforming use shall continue after the nonconforming use has ceased.**
6. A nonconforming building or a building in which a nonconforming use is conducted that is destroyed or damaged by any casualty to any extent not exceeding fifty (50) percent of its current appraised value according to the records of the Commissioner of Revenue may be restored within two years after such destruction or damage but shall not be enlarged except as provided in Section 1002 above. If any such building is so destroyed or damaged to an extent exceeding seventy-five (75) percent of its value as above, it shall not be reconstructed except:
  - A. For a conforming use.

- B. If the building is used for agricultural purposes and the floors and foundation walls are of concrete and/or other masonry which are not practical to move.
  - C. If the nonconforming location is necessary to meet any requirement or regulation of the Health Department.
  - D. If the nonconforming building is a single family detached dwelling, in which event it may be reconstructed within two years after the aforesaid destruction or damage so as to occupy the same space that it occupied prior to such destruction or damage or any part thereof.
7. Any use of land, buildings or structures, lawfully existing at the time of adoption of this Zoning Ordinance, which does not conform to the regulations and restrictions prescribed for the district in which it is situated, may be continued only so long as the then existing use or a more restrictive use, as provided for in sub-paragraphs **A and B below**, continues and/or is not discontinued.
- A. If a nonconforming use is discontinued for a continuous period of two years or more, other than for reasons beyond the control of the owner of the property, except as provided in paragraph 6 above, the land and buildings theretofore devoted to such nonconforming use shall thereupon be subject to all the regulations as to use for the Zoning District in which such land or buildings are located as if such nonconforming use had never existed.
  - B. Notwithstanding any other provisions of the Ordinance, a more restricted nonconforming use may be substituted for an existing nonconforming use upon application to the Zoning Administrator for a zoning permit. The Zoning Administrator shall issue such a permit in the event the following standards are satisfied by the applicant.
    - (1) That the proposed use is such that it will definitely have a lesser adverse effect on the use or development of neighboring properties than the existing nonconforming use, and will not discourage the appropriate development and/or use of adjacent land or buildings or impair the value thereof to an extent which is definitely less than the existing nonconforming use.

- (2) That the proposed use is such that the pedestrian and vehicular traffic generated by the same will be definitely less hazardous or in less conflict with the existing and anticipated traffic in the neighborhood and on the street serving the site than that generated by the existing nonconforming use.
  - (3) That the facilities required for utilities, drainage, parking, loading and other necessary facilities to serve the proposed more restricted nonconforming use are definitely less than those required for the existing nonconforming use, and that the parking and loading requirements necessary for such proposed more restricted nonconforming use are definitely less than those required for the existing nonconforming use.
- 8. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.
  - 9. The rights pertaining to a nonconforming use or building shall be deemed to pertain to the use or building itself, regardless of the ownership of the land or building on or in which such nonconforming use is conducted or of such nonconforming building or the nature or the tenure of the occupancy thereof.
  - 10. All of the foregoing provisions relating to nonconforming uses and buildings shall apply to all nonconforming uses and buildings existing on the effective date of this Ordinance and to all uses and buildings that become nonconforming by reasons of any amendment thereof. The provisions shall not apply, however, to any use established or buildings erected in violation of law, regardless of the time of establishment or erection.

#### **8-1005**

#### **Non-conforming Buildings: Expansion in Required Yards**

Buildings which are nonconforming by reason of not meeting minimum yard requirements may be expanded in a minimum yard area where:

- 1. The addition encroaches on such yard a distance equal to or less than did the buildings on the effective date of this Ordinance, and

2. The area of the addition which encroaches on the minimum yard does not exceed 30% of the area encroaching on said yard on the effective date of this Ordinance.

## **8-1006**

### **Qualifications for Substandard Subdivisions**

1. The number of lots after resubdivision is not greater than (i) the number of existing substandard lots to be resubdivided or (ii) the number of existing residential dwelling units located on such lots, whichever is greater;
2. The resubdivision contains a minimum of 25% of total area in open space, which may be satisfied with common open space, non-common open space or a combination of common and non-common open space platted and dedicated as one or more lots. Notwithstanding the provisions of Section 4-109, the Board of Supervisors may modify the open space requirement to allow a reduction to 25 percent open space in conjunction with the resubdivision plat approval, provided the applicant can show that the lot layout and street connections improve the overall development design, drainage, site access, preservation of historic structures or features, or integration with the historic character of the village.
3. If private streets are to serve the resubdivision, Type II private street standards shall apply;
4. Public or private streets shall have a minimum right-of-way forty (40) feet in width.
5. The lots shall be served by sewer service provided by the Fauquier County Water and Sanitation Authority, Town of Warrenton, Town of Remington or the Vint Hill Economic Development Authority, unless a special exception is obtained in accordance with the requirements of Section 8-129 of this Ordinance;
6. The resubdivision shall be in accordance with Subdivision Ordinance Section 4-12.

The regulations set out in Sections 10-1007 through 10-1009 shall apply to the resubdivision of any subdivision defined as a substandard subdivision in Article 12; provided, that such resubdivision of such substandard subdivision complies with all provisions of The Subdivision Ordinance. All other provisions applicable to the zoning district in which the property to be resubdivided hereunder lies, not specifically modified by this Part, shall continue to apply.

## **8-1007**

### **Lot Area Requirement**

No structure shall be erected or placed on a lot or building site in the development of a resubdivision of a substandard subdivision unless such lot or building site complies with the following:

1. The average area of the lots in such a resubdivision shall not be less than the average area of the lots in the subdivision heretofore lawfully dedicated and recorded, plus one-half (1/2) the difference between that average and the average area required for a lot in the zoning district in which the subdivision lies.
2. The minimum lot area in such subdivision shall be not less than ten (10) percent smaller than the above described average lot area except that no lot proposed for a single family detached dwelling shall in any case contain an area of less than 6,500 square feet or such greater minimum area as may be required by the Health Department.

**8-1008**

**Lot Width Requirement**

The minimum width of any lot shall be not less than the lot width required in the next less restrictive zoning district in which such subdivision lies. In no case shall any interior lot proposed for a single family detached dwelling have a width of less than fifty (50) feet, nor shall any corner lot proposed for a single family detached dwelling have either a width or a depth of less than seventy (70) feet. All such widths or depths shall be measured at the required front yard line.

**8-1009**

**Yard Requirements**

1. The front yard requirement in resubdivisions of subdivisions developed as a substandard subdivision shall be the same as the front yard requirement in the zoning district in which the property lies.
2. There shall be on each side of every building a side yard not less than that required in the next less restrictive zoning district in which the property lies. In no case, however, shall any side yard be less than ten (10) feet in width.
3. No part of a building shall be erected within twenty (20) feet of the rear lot lines.